

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 7342 of 2018

Janardan Bhikaji Gawade
Aged about 56 years, Occupation :
Labour, R/o Kinhi, Tq. Sindewahi,
Dist. Chandrapur.
Presently Member of Gajanan Adiwasi
Jangal Kamagar Sahakari Sanstha
Maryadit, Lonwahi, Tq. Sindewahi,
Dist. Chandrapur.

... Petitioner

... Versus ...

- (1) State of Maharashtra through its
Secretary, Co-operation, Textile
Department, Mantralaya,
Mumbai – 32
- (2) The Secretary, Revenue and Forest
Department, Mantralaya,
Mumbai – 32
- (3) The Assistant Registrar
Co-operative Societies,
Taluka Sindewahi,
Dist. Chandrapur.
- (4) District Deputy Registrar
Co-operative Societies, Chandrapur.
- (5) Divisional Forest Officer (East)
Chanda Division, Bramhapuri,
Dist. Chandrapur.
- (6) Gajanan Adiwasi Jangal
Kamagar Sahakari Sanstha
Maryadit, Lonwahi, Tq. Sindewahi,
Dist. Chandrapur through Administrator.

... Respondents

 Mr. N. N. Thengre, Advocate for the petitioner
 Mr. N. R. Rode, A. G. P. for the State/respondents 1 to 5

CORAM : ROHIT B. DEO, J.
DATED : 2-5-2022

ORAL JUDGMENT

Rule. With consent, the petition is finally heard since the issue is covered by the decision of this Court in *Late Rajiv Gandhi Macchimar Sahakari Sanstha Maryadit, Didola Bk. Vs. Deputy Registrar, Co-operative Societies (Fishery), Mumbai and ors. [2015(4) Mh.L.J. 492]*.

2. The petitioner is challenging the order dated 23-10-2018 passed by the Assistant Registrar, Cooperative Societies, Taluka Sindewahi, District Chandrapur purporting to cancel the registration of the petitioner - cooperative society in exercise of the power under Section 21 of the Maharashtra Cooperative Societies Act, 1960 (Act).

3. The order impugned is appealable. However, in view of the submission of learned counsel for the petitioner, Mr. Thengre that the order impugned is without jurisdiction, the petition is heard on merits.

4. The short submission is that Section 21A (5) power can be exercised, not by the Assistant Registrar, but by an officer not below the

rank of a Joint Registrar of Cooperative Societies. Reliance is placed on the provisions of sub-section (5) of Section 21A of the Act which reads thus :

“(5) The powers of the Registrar under sub-sections (1) and (2) shall not be exercised by any [Officer below the rank of a Joint Registrar of Co-operative Societies.]”

5. Identical issue is considered in the decision noted supra and this Court has held thus :

“4. The respondents have placed reliance upon the notification dated 30th March, 2000, issued under section 3 of the said Act, which confers all the powers of Registrar under the Act and the Rules upon the Deputy Registrar, Co-operative Societies, except in respect of the matters stipulated therein. It is not in dispute that section 21-A is not the matter stipulated therein so as to exclude the jurisdiction of delegated powers of Registrar being exercised by the Deputy Registrar. It is, therefore, urged that the Deputy Registrar was, therefore, competent to exercise the powers under Sub-section (5) of section 21-A of the said Act.

5. Section 3 of the said Act under which the notification was issued on 30th March, 2000, regarding delegation of powers does not start with non-obstante clause as has been rightly urged by Shri P. B. Patil, Advocate. It does not, therefore, include the provision of sub-section (5) of section 21-A of the said Act. The power under sub-section (5) of section 21-A cannot be exercised by an officer below the rank of Joint Registrar of Co-operative Societies and section 3 of the said Act does not confer powers under the State Government to delegate the powers of Joint Registrar of Co-operative Societies under sub-section (5) of section 21-A,

upon the Deputy Registrar of the Co-operative Societies. The exercise of jurisdiction under section 21-A by the impugned orders cannot, therefore, be sustained.”

6. Learned Assistant Government Pleader, Mr. Rode has not invited may attention to any contrarian view.

7. Considering that the issue is covered and with which view, I respectfully agree, the petition will have to be allowed.

8. The order impugned is quashed. The appropriate authority is, however, at liberty to initiate action for de-registration, if deemed fit, and in accordance with law.

9. The petition is allowed in the aforestated terms.

JUDGE

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